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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,200	05/14/2001	Cindy L. Price	659-787	8178

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,200

Applicant(s)

PRICE ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-14 and 16-48 is/are pending in the application.
- 4a) Of the above claim(s) 6,7,12,13,18,19,23,28,29,33,36-39,42,43 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8-11,14,16,17,20-22,24-27,30-32,34,35,40,41,44,45,47 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

Drawings

1. The drawings were received on 2-8-04. These drawings are not approved by the Examiner. The proposed drawing changes are not approved because they do not conform Figure 5 to Figure 7 as argued. Figure 7 shows the rightmost element 76 overlapping the retention portion while Figure 5 does not.

Claim Language Interpretation

2. In claims 1, 14 and 24, with respect to the side margin being unattached to the bodyside surface of the body panel between the free edge and the location, "unattached" is interpreted as not being directly attached.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 4-5, 8-11, 34-35 and now also 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Kao '131.

See Figures, paragraph bridging pages 5-6 and page 7, line 25-page 9, line 17, i.e. body panel is 2, absorbent composite is 3 which includes a backsheet 16, a topsheet 15, a retention portion 17, the composite is connected to the body surface of the panels at longitudinally

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extending locations A in the crotch region as shown in Figure 2 to form side margins 18 between free edges and the locations A and include both the topsheet and backsheet extending outward of the side edges of the retention portion and an elastic element which extends less than the entire length of the composite, i.e. between 5% and 100% as shown in the Figures. The side margins between the free edges and the locations A are directly unattached to the panel. The retention portion does not form any portion of the side margin, i.e. the portions between A and the free edges in the crotch region of Figure 2 and the ends of the composite are spaced from the waist edge of the body. It is noted that the claims do not require the side margins extend from end to end of the composite, see Figure 4, i.e. the ends of the composite do not have side margins 18. See also response to Arguments section infra.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kao '131 in view of Rajala '922.

See rejection supra, page 4, lines 5-7 and page 9, lines 6-16, i.e. the Kao '131 device includes a panel of inner and outer layers and the panel includes monolithically formed front and rear sections while Applicant claims the front and rear sections being first and second panels with terminal crotch edges that are spaced apart. It is noted that the claims do not require the garment having no crotch section or a crotch section formed only of the absorbent composite or the direct connection of the composite to the panel at the first and second location. However see

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Rajala '922, col. 6, line 36, col. 2, lines 60-66 and abstract, lines 1-5, i.e. interchangeability of monolithically formed front and rear sections of an inner layer and an inner layer formed of two panels with terminal crotch edges which are longitudinally spaced. To make the inner liner of Kao two spaced panels rather than one panel would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Rajala. In so doing, the modified Kao device would include the claimed body panel structure.

7. Claims 14, 16-17, 20-22, 24-27, 30-32, 40-41, 44-45 and now also 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao '131 in view of Rajala '922 and Hasse et al '151.

See rejection supra, page 4, lines 5-7 and page 9, lines 6-16, i.e. the Kao '131 device includes inner and outer layers which have monolithically formed front and rear sections while Applicant claims the front and rear sections comprising respective first and second panels and each panel having at least two substrates with substrate terminal crotch edges that are spaced apart. It is noted that the claims do not require the garment having no crotch section or a crotch section formed only of the absorbent composite or only two body panels, i.e. can include layers in addition to the panels which include monolithically formed front and rear sections. However see Rajala '922, col. 6, line 36, col. 2, lines 60-66, and abstract, lines 1-5, i.e. interchangeability of monolithically formed front and rear sections of an inner layer and an inner layer formed of two panels with terminal crotch edges which are longitudinally spaced. Col. 9, lines 21-49, especially lines 33-34, also appear to teach that the inner layer 14 can be two panels and each panel can be a combination of fibers or foam and plastic film, i.e. each panel has two substrates. In any case see Hasse et al which teaches an absorbent composite or assembly attached to a

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chassis or garment which has inner and outer layers with monolithically formed front and rear section in which each layer can be one or more than one substrate, see Figures and col. 3, line 36-col. 4, line 10. To make the inner liner of Kao two spaced panels rather than one panel and of two substrates, both having a terminal crotch edge, would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Rajala and Hasse et al. In so doing, the modified Kao device would include the claimed body panel structure. With regard to the method claims, see col. 1, lines 10-15, col. 4, lines 58-61 and col. 5, lines 41-50.

Double Patenting

8. The terminal disclaimer of 7-27-04 is deemed proper to overcome the double patenting rejection set forth in the 4-22-04 Office Action.

Common Ownership

9. The statement of common ownership set forth on page 13 of the 3-31-05 response is deemed proper.

Response to Arguments

10. Applicants remarks have been considered but are either deemed moot in that they have not been reraised or are deemed not persuasive for the reasons set forth supra. Specifically with regard to the rejection over Kao, Applicant's arguments are narrower than the claim language which don't require the side margins extend from end to end or the at least a longitudinally extending portion be located at any specific longitudinal position relative to the composite. It is noted that even if such were claimed Applicant's attention is drawn to page 9,

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lines 4-6 and Figure 2 of Kao and Figures 1 and 5 of Buell '003 now made of record.

Applicant's remarks with respect to Kao and Rajala alone are deemed not persuasive with regard to claim 2 since the claim language added to claim 14 has not been added to claim 2 and deemed moot with regard to the other claims. It is however noted that the claims do not require each layer of each panel comprising two substrates as argued on page 12, lines 15-16.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The claim language added to claims 1, 14 and 24 as well as new claims 47-48 necessitated any new grounds of rejection.


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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
June 17, 2005